

SA091 (Rev. 12/03) Criminal Complaint

FILED

At Albuquerque NM

UNITED STATES DISTRICT COURT

JUN 28 2007

DISTRICT OF

MATTHEW J. DYKMAN
CLERK

UNITED STATES OF AMERICA

V.

CRIMINAL COMPLAINT

Benjamin J. Youngbear (year of birth 1986)
Ohkay Owingeh,
New Mexico, 87566

Case Number: 07-MJ-1338

(Name and Address of Defendant)

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about 6/19/2007 in RIO ARRIBA County, in the STATE and District of NEW MEXICO defendant(s) did,

(Track Statutory Language of Offense)

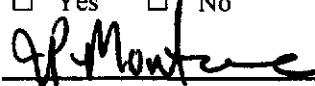
The defendant, Benjamin J. Youngbear, an Indian, did assault Yvette Youngbear, an Indian with a dangerous weapon with the intent to do bodily harm, without just cause or excuse and committed assault which resulted in serious bodily injury to Yvette Youngbear, an Indian while in Indian Country.

in violation of Title 18 United States Code, Section(s) 1153 & 113 a (3) and 113 a(6)

I further state that I am a(n) Special Agent and that this complaint is based on the following facts:

Official Title

see attached affidavit

Continued on the attached sheet and made a part of this complaint: ☐ Yes ☐ No

Signature of Complainant

J.P. Montowine

Printed Name of Complainant

Sworn to before me and signed in my presence,

June 28, 2007

Date

at

Albuquerque

City

NM

State

ROBERT H. SCOTT, U.S. Magistrate

Name of Judge

Title of Judge

Robert H. Scott

Signature of Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA)

VS.)

Case No: _____

BENJAMIN J. YOUNGBEAR
SAN JUAN PUEBLO
NEW MEXICO, 87566

AFFIDAVIT

1. I, J.P Montowine, have been a Law Enforcement Officer since May 1994. I have performed law enforcement duties as a Police Officer, Criminal Investigator, and Special Agent, while employed with two different Law Enforcement entities. I have been employed with the Bureau of Indian Affairs, Northern Pueblos Agency, Office of Justice Services for eleven years. I have thirteen years of law enforcement experience. I am currently a Special Agent. My primary duties as a Special Agent are to investigate offences of the Major Crimes Act, which occur within the exterior boundaries of the Indian reservations to which I am assigned. Assault with a dangerous weapon with the intent to do bodily harm and resulting in serious bodily injury are of my responsibilities. The information set forth in this affidavit is known to me as a result of my own investigation or has been communicated to me by other law enforcement agencies or agents.

2. Because this affidavit is being submitted for the purpose of securing a Warrant for Arrest, I have not included each and every fact known to me concerning this investigation. I have set forth facts I believe are Necessary to establish probable cause to arrest Benjamin J. Youngbear, for the crime of Assault with a Dangerous Weapon with Intent to do Bodily Harm without Just Cause or Excuse, and Assault Resulting in Serious Bodily Injury in Indian Country, a violation of Title 18, United States Code, Section 1153 and 113 paragraph (a) (3) and paragraph (a) (6) for the assault of Yvette Youngbear.

3. On Tuesday, June 19, 2007, about 3:44 p.m., the Ohkay Owingeh Tribal Police Department (OOTP) responded to an assault at No. 333, Manhattan Drive. The location of the assault is within the exterior boundaries of the Ohkay Owingeh Indian Reservation, Rio Arriba County, and the State of New Mexico. The assault resulted in the victim receiving serious bodily injury. The victim Yvette Youngbear told the responding police officer it was her brother Benjamin Youngbear who stabbed her.

4. The victim is Yvette Youngbear, an adult Indian female, and an enrolled member of the Northern Cheyenne Indian Tribe, of the State of Montana. Yvette Youngbear will be referred to as Yvette for the remainder of this affidavit. Yvette sustained about a nickel size puncture wound to the left side of her neck. The puncture wound was deep and muscle tissue was contracting as Yvette breathed. Yvette displayed signs of severe pain and had trouble moving as a result of the puncture wound. Yvette also had an abrasion on her upper left forehead. Yvette lost a lot of blood as a result of the puncture wound and received at two blood transfusions.

5. The defendant is Benjamin J. Youngbear, an adult Indian male. Benjamin is an enrolled member of the Northern Cheyenne Indian Tribe of the State of Montana. Benjamin J. Youngbear will be referred to as Youngbear throughout the remainder of this affidavit. Youngbear is Yvette's younger brother.

6. An OOTP Police Officer arrived to the residence and secured it as a crime scene. The residence was abandon, and has been for at least five years. The tribal police officer received written authorization from the residence owner granting permission to collect evidence. It was obvious the residence was used as a "drug and party house." Drug paraphernalia and empty alcohol containers were scattered about the entire residence.

7. On June 19, 2007, BIA Police Officer Frank Chavez interviewed Yvette Youngbear. Yvette told Officer Chavez she was drinking with Youngbear, Budget (Patrick Cata Jr.), and a guy named Adrian. Yvette left for awhile and was to return with some cocaine. Yvette returned without the cocaine and Youngbear became upset. Youngbear picked up a bottle and broke it. Youngbear then stabbed Yvette in the neck with the broken bottle.

8. I, BIA Special Agent John P. Montowine interviewed Youngbear about the incident involving his sister Yvette. Youngbear stated he heard his sister had been stabbed and was taken to the hospital. Youngbear heard the police suspected him of stabbing Yvette, and the police were looking for him. Youngbear contacted the tribal

police on his own accord. I met with Youngbear at my office. Youngbear said he ingested cocaine and drank heavily most of the day, of the stabbing. Youngbear said he did not remember the stabbing or fighting with his sister.

9. On June 19, 2007, I interviewed Juanita Cata at her residence. Juanita stated Youngbear and Yvette were intoxicated. Juanita said Yvette came running to her residence and was covered in blood. Yvette was bleeding from the neck. Juanita then saw Youngbear. Youngbear had a bloody mouth. Juanita asked Youngbear what happened. Youngbear told Juanita he fought with Yvette, but she had started it. Juanita gave Yvette a ride to another residence. Juanita said Yvette was crying and bleeding badly.

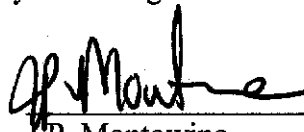
10. On June 21, 2007, I interviewed Patrick Cata Jr. (AKA Budget). Patrick said he was drinking with Youngbear and Yvette. Patrick said Youngbear and Yvette were fighting over whisky. They were all intoxicated. Patrick saw Youngbear pick up a bottle and throw it at Yvette. Patrick did not know if the bottle was already broken. A piece of broken glass imbedded into Yvette's neck. Patrick pulled the glass out. Youngbear continued to attack Yvette. Patrick had to get in between them and stop Youngbear from hurting Yvette any further.

11. On June 27, 2007, Tim Bahima M.D., Espanola Medical Center confirmed the injuries sustained by Yvette met the definition of "serious bodily injury." Dr. Bahima stated, in his opinion Yvette had a "substantial risk of death", and was in "severe pain."

In addition Dr. Bahima said Yvette will permanently be disfigured by a scar once her injury is healed.

12. Based on the above mentioned facts, known to me concerning this investigation, the affiant believes probable cause exist to arrest Benjamin J. Youngbear for the crime of Assault Resulting in Serious Bodily Injury with out Just Cause or Excuse, and Assault with a Dangerous Weapon with intent to do Bodily Harm in Indian Country, a violation of Title 18, United States Code, Section 1153 and 113 paragraph (a) (3) and paragraph (a) (6), for the Assault which Resulted in Serious Bodily Injury to Yvette Youngbear.

I swear this information is the truth to the best of my knowledge and belief.



J.P. Montowine
Special Agent
BIA/NPA/OLES

Subscribed and sworn to before me
This 28 Day of June, 2007


United States Magistrate Judge